

# Commercial Fisheries Support Facilities Management Plan

Kodiak National Wildlife Refuge  
Kodiak, Alaska

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# **Commercial Fisheries Support Facilities Management Plan**

Kodiak National Wildlife Refuge  
Kodiak, Alaska

U.S. Department of Interior  
Fish and Wildlife Service  
Region 7 – August 2011

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## Executive Summary

The Commercial Fisheries Support Facilities Management Plan for Kodiak National Wildlife Refuge is a step-down plan from the Revised Comprehensive Conservation Plan, Kodiak National Wildlife Refuge adopted in 2007. The purpose of this plan is to guide the management of commercial fisheries support facilities on Kodiak Refuge lands.

Many elements of the 2011 Commercial Fisheries Support Facilities Management Plan remain unchanged from the 1987 version. Notable differences include the opportunity to construct an additional building for a generator or ice machine, and the addition of three annual set net or beach seine site permits allowing temporary facilities in moderate use areas of the Refuge.

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# Commercial Fisheries Support Facilities Management Plan

## Introduction

This Commercial Fisheries Support Facility Management Plan (Management Plan) replaces the 1987 Commercial Fisheries Management Plan for the Kodiak National Wildlife Refuge (Kodiak Refuge). It is a step-down plan from the Revised Comprehensive Conservation Plan, Kodiak National Wildlife Refuge 2007 (Kodiak CCP). The purpose of this Management Plan is to guide the management of support facilities for set-net and beach seine commercial fisheries operations located on Kodiak and Alaska Maritime Refuge lands within the Kodiak Archipelago. This Management Plan will be reviewed and updated from time to time as issues dictate a change in management policy.

## Purpose of and Need for Action

The 2006 Revised CCP and Environmental Impact Statement indicated that the 1987 Commercial Fisheries Management Plan would be revised beginning in 2007 using a public process as the means of addressing current issues. Set net site permittees, state and federal agencies and other interested entities were notified via a letter dated November 29, 2007, of a public scoping meeting to be held on January 15, 2008. The intent of the meeting was to collect public input on changes needed to the 1987 plan. A public comment period was open from November 29, 2007, to February 15, 2008. Written and oral input was received and used to help determine changes in management of these issues.

### *Purposes of Kodiak National Wildlife Refuge*

As stated in Executive Order 8857, dated August 19, 1941, Kodiak National Wildlife Refuge was established "...for the purpose of protecting the natural feeding and breeding ranges of the brown bears and other wildlife on Uganik and Kodiak Islands, Alaska.

Under Alaska National Interest Lands Conservation Act (ANILCA), the purposes of the Kodiak Refuge were further defined and expanded beyond the original purpose identified in 1941.

Section 303(5) (B) of ANILCA states:

"The purposes for which the Kodiak National Wildlife Refuge is established and shall be managed include

(i) to conserve fish and wildlife populations (and) habitats in their natural diversity, including, but not limited to, Kodiak brown bears, salmonids, sea otters, sea lions and other marine mammals and migratory birds;

(ii) to fulfill the international treaty obligations of the United States with respect to fish and wildlife and their habitats;

(iii) to provide, in a manner consistent with the purposes set forth in subparagraphs (i) and (ii), the opportunity for continued subsistence uses by local residents; and

(iv) to ensure, to the maximum extent practicable and in a manner consistent with the purposes set forth in paragraph (i), water quality and necessary water quantity with the refuge.”

## **Background**

The Kodiak Refuge was established in 1941 by President Franklin D. Roosevelt (Executive Order 8857). Between 1941 and 1958, a one-mile strip of land along the coast was excluded from the Refuge, and opened for homesteading and commercial uses. Companies and private individuals claimed many land parcels for fish traps, canneries, and home sites, some of which were still being constructed after the area was withdrawn from public entry. Cabins and other facilities constructed on Refuge lands after 1958 became subject to a special use permit program, with a goal of protecting the Refuge’s biologically rich coastline.

On December 2, 1980 Public Law 96-487, commonly known as ANILCA was passed. This act established new National Wildlife Refuges, other conservation system units, and added new lands and purposes for existing refuges such as Kodiak Refuge. ANILCA took into account the fact that Refuge lands were already supporting facilities associated with commercial fishing activities. Section 304(d) of ANILCA states, “The Secretary shall permit within units of the National Wildlife Refuge System designated, established, or enlarged by this Act, the exercise of valid commercial fishing rights or privileges obtained pursuant to existing law and the use of federal lands, subject to reasonable regulation, for campsites, cabins, motorized vehicles and aircraft landings directly incident to the exercise of such rights or privileges: Provided, that nothing in this section shall require the Secretary to permit the exercise of rights or privileges or uses of the federal lands directly incident to such exercise, which he determines after conducting a public hearing in the affected locality, to be inconsistent with the purposes of a unit of the National Wildlife Refuge System as described in this section and to be a significant expansion of commercial fishing activities within such unit beyond the level of such activities during 1979.”

## **Historic and Current Use**

Commercial fishing activity has fluctuated greatly over the past 20 years due to the dynamic characteristics of salmon populations and economics around the Kodiak Archipelago. These fluctuations are not only reflected in the salmon population escapement counts collected by Alaska Department of Fish and Game, Commercial Fisheries Division but are also represented in the number of permits issued by ADF&G-CFD during this time.

It is important to document the historic levels of commercial fishing activity because in accordance with ANILCA the Service is not required to permit the exercise of rights or privileges or uses of Federal lands which are inconsistent with the purposes of the Kodiak Refuge and a significant expansion of commercial fishing activities within the Refuge beyond the level of such activities in 1979 (ANILCA Sec. 304 (d)). In 1979 there were a total of 27

commercial fishing support facilities sites on what are now Kodiak Refuge lands. In 2011 there are 24 commercial fishing sites on Refuge lands.

The Kodiak Refuge historical files do not have detailed information on the number of beach seiner special use permits active in 1979. Although, ADF&G – Commercial Fisheries Entry Commission records show 27 limited entry salmon beach seine permit holders in 1980 and 15 permit holders in 2006 for the entire Kodiak District. The number of permits that were actually fished in 1980 was 27 with 0 fished in 2006.

## **Support Facilities Management Plan**

### *Cabin regulation and policy*

Facilities on Alaska National Wildlife Refuges are regulated by 50 CFR 36.33 (Cabin Use) and 50 CFR 36.41 (Permits).

The following rules will guide permitted facilities at set net sites:

1. Type and size of cabins and other related structures permitted at sites will include:
  - One primary cabin for living quarters (600 ft<sup>2</sup> maximum)
  - One storage cabin;
    - For 1-3 limited entry permits (400 ft<sup>2</sup> maximum);
    - For 4 limited entry permits (500 ft<sup>2</sup> maximum); and
    - For 5 limited entry permits (600 ft<sup>2</sup> maximum);
  - One outhouse;
  - One banya (64 ft<sup>2</sup> maximum); in case of inadequate water supply at site and if necessary;
  - One water storage tank, if necessary to build head for water system;
  - One generator/ice machine storage building:
    - For 1 limited entry permits (100 ft<sup>2</sup> maximum);
    - For 2 or more limited entry permits (200 ft<sup>2</sup> maximum).
2. Buildings must be single story, and the exterior (including roof) will be a dull, earth tone or white color that blends with the surroundings.
3. If present facilities contain less square footage than allowed in this plan but consist of more individual buildings than are listed here, the permittee may increase the size of the facilities up to the maximum size. However, this increase will be allowed only if the permittee brings the total number of buildings on the site into conformance with this plan. In the event that any site has more than the allotted number of facilities, the permit holder will not be required to make any changes to adhere to this policy. However, when buildings need to be replaced, the number and size of buildings must be brought into compliance with this policy. For example, if a site has one primary cabin (up to 600 ft<sup>2</sup>) and two storage facilities (200 ft<sup>2</sup> each), when the two storage facilities need to be replaced, they will have to be replaced with one storage facility with up to the maximum square footage allowed for the number of permits fished at the site (e.g., 1-3 entry permits allowed maximum size of 400 ft<sup>2</sup>). Plans to build a new structure or modify an existing facility must be submitted to the Refuge Manager and approved prior to construction.



4. If present facilities contain more square footage than allowed under this plan and these facilities need to be replaced, then the replacement facilities must comply with the specifications of this plan.
5. Garden plots up to 200 square feet are allowed for the purpose of growing annual garden vegetables only.

The square footage of a facility is calculated by measuring the external dimensions including patios and porches. Facilities are also limited to one-story, with one-story defined as the distance between the floor sill and ceiling sill. This distance cannot exceed 10 feet.

#### *Other Related Structures*

This plan allows for an additional 100 square foot generator/ice house facility if 1 permit is being fished and up to a 200 square foot facility if 2 or more permits are being fished at a set-net site. All facilities must be single story construction and comply with paint color requirements. Submitted plans must have the Refuge Manager's approval in writing prior to construction. The new facility must be located on refuge lands within or immediately adjacent to the current footprint of the set-net site, with footprint defined as the area presently occupied and utilized.

#### *Fuel Storage*

Approval from the Refuge Manager is required before the installation of any fuel storage tanks. Whenever fuel is stored in single-wall tanks, drums, or containers, secondary containment must be provided. The fuel storage area must be large enough to allow Refuge personnel to inspect the condition of drums and containers on all sides. Storage drums and containers will be marked with the owner's name and type of fuel contained within. Spill containment/cleanup supplies shall be available at all times at fuel storage sites. Adequate sorbent material to recover at least 10 percent of the volume of the largest container will be maintained at the site. Used sorbents will be disposed of in accordance with state and federal regulations.

#### *Fishing season of use*

The historical basis for establishing an occupancy period for set net site upland shore facilities was to allow the facilities to be used during the commercial salmon fishing season. The fishing season is set by Alaska Department of Fish & Game – Commercial Fisheries Division (ADF&G-CFD) to manage the commercial salmon fisheries in the Kodiak Management Area (KMA) and promote sustained yields for future KMA salmon returns by achieving salmon escapement goals (J. Wadle, ADF&G – CFD, Kodiak, personal communication). Historically, the annual salmon season has been opened by June 1 and closed by October 31. Actual fishing periods within these dates are opened and closed by ADF&G -- CFD through emergency orders based upon salmon abundance. The permitted season of cabin is from May 15 through September 15. The Refuge Manager has the authority to grant exceptions for occupancy outside of these dates on a case-by-case basis. If there is a valid need for permittees to occupy the sites outside of the designated season of use (e.g., cabin maintenance, gear repair, etc.), permittees must request permission and receive approval from the Refuge Manager.

## *Permits*

In 1979 there were 27 special use permits issued for commercial set-net sites on Kodiak Refuge. In that year, the refuge also initiated a policy that no new permanent set net support facilities sites would be constructed or permitted on the refuge. This policy was continued in the 1987 CCP, 1993 Public Use Management Plan, and 2007 CCP and remains in effect. In 2009, 24 set net site permits were active on the refuge. Effective with this Plan, the Refuge will annually issue up to three 1-year commercial fishing site permits for set net or beach seine activity using temporary facilities. Applications for these permits must be received prior to the end of a 60 day period advertised by the refuge each year. The application must provide proof that the applicant has the appropriate state permits. Successful applicants will be selected by lottery and notified by mail of their success. If fewer than 3 applications have been received by the deadline, any remaining permits will be issued on a first-come, first-served basis. Permits will be valid for one year. The fishing site may be a set net or beach seine operation and must be located in a moderate management zone (see map, Appendix E). The permit would authorize temporary facilities which must be removed at the end of the fishing season. Applications would be reviewed to ensure the proposed facility is compatible with refuge purposes. Permits would be assessed the permit administrative fee and the site use fee for tent platforms and other camp structures as per the U.S. Fish and Wildlife Service Annual Fee Schedule. Special conditions for the annual use permits are contained in Appendix D.

## *Annual Use Fees*

50 CFR 29.21-7 authorizes fees to be established for the use and occupancy of National Wildlife Refuge lands. Reserved site use (rental) fees must be paid prior to the permittee occupying the set-net site. The fees are based on fair market value as determined by appraisal. Set-net sites are appraised as if they are vacant (ignoring cabins, storage sheds, and other improvements). Appraised values are then used to administratively establish use fees for the set net sites. The fee is payment for use of the site for cabins and other facilities to occupy public lands. Failure to make an annual payment, unless prior arrangements have been made with the Refuge, may be grounds for revocation of a permit.

## *Duration of Permit*

Special use permits for occupancy of cabins and other facilities associated with the exercise of valid commercial fishing rights or privileges are issued for a period of five (5) years. The permits are non-transferable and are renewable as long as the permittee continues to comply with permit terms and conditions, demonstrates a need for the facilities, and uses the facilities for the authorized purposes. An administrative fee (currently \$100.00) is required at permit issuance, and each time the permit is renewed.

## *Ownership of facilities*

Existing cabins are defined as those cabins that were situated on Federal lands before December 2, 1980. Those cabins permitted for construction on refuge lands after December 2, 1980, are

deemed new cabins (50 CFR, 36.33) and are property of the U.S. government (Appendix C). Existing cabins are and remain the personal property of the permittee (50 CFR 36.33 (c) (1)). New cabins are property of the U.S. government (50 CFR 36.33 (d) (2) (v)). Ownership of other related structures at a cabin site is the same as the main cabin (e.g., if the main cabin is privately owned, then all outbuildings are privately owned regardless of the date of construction; if the main cabin is government owned, then all outbuildings are government owned).

#### *Sale or Transfer of Ownership*

Commercial cabin (set net site) special use permits are non-transferable. Set net permit holders are not allowed to transfer their special use permit to another party. In the event that a set net permit holder would like to sell or exchange their set-net site business (ADF&G – Commercial Fishing Limited Entry Permit, fishing gear, boats, and any upland facility that they own) to another person, the new owner does not automatically qualify for a refuge special use permit and must apply to the Refuge for a new permit. Issuance of a new refuge special use permit will be based on the new owner's proposed uses of and need for the cabin and associated structures at the site. It is the prospective buyer's responsibility to work with the Kodiak Refuge Manager before purchasing the cabin and other site improvements to determine whether he/she would qualify for a refuge special use permit. If a buyer does not qualify (eligibility criteria as established for commercial cabins in 50 CFR 36.33(e)(2) will be applied) for a refuge special use permit, he/she must remove all fishing gear and facilities included with their purchase from refuge lands. A permittee, upon sale of their business, may include the value of facilities they own, however they may not include in the sale of any on-site facilities owned by the government. If a set net site special use permittee no longer qualifies or their special use permit is not renewed, then it is the owners' responsibility to abide by the permit conditions regarding the removal of personal property. Those cabins that are unclaimed or abandoned will become the property of the federal government and may be used or disposed of in accordance with federal regulations.

#### *Construction, repair, and rehabilitation of cabins*

Major modifications or rehabilitation of an existing or new cabin must be approved by the Refuge Manager before construction begins. Major additions (e.g., larger than the original cabin) may fall under the ownership provisions for new cabins. Although cabins destroyed by accidents, vandalism or natural causes may be reconstructed, reconstruction plans must be approved by the Refuge Manager before construction begins. Reconstructed cabins must meet current construction guidelines (as stated above), and ownership remains the same as for the original cabin (50 CFR 36.33).

#### *Use of Refuge lands*

All set net special use permit holders are authorized to utilize refuge lands as specified in their special use permit and in accordance with Refuge policy and regulations.

Prior to the passage of ANILCA in 1980, motorized vehicles (e.g., ATV's) were not used in the set net fishery on Kodiak Refuge and are not considered necessary for this activity. Therefore such uses will not be allowed on Refuge lands.

Domestic livestock are prohibited on the Refuge. Domestic livestock include, but are not limited to, cows, horses, goats, sheep, poultry, and swine (50 CFR 26.21 (b)).

In recent years public awareness has increased regarding the adverse effects of introduced invasive non-native plants. Once established, invasive plants tend to multiply, displacing native species of plants and degrading fish and wildlife habitat. Several small populations of invasive plants have been documented on Refuge lands and the refuge staff is attempting to control and eliminate those infestations (Appendix B). To prevent the introduction of invasive species, the introduction of non-native plants is prohibited except for annual garden vegetables.

Cabin permit holders may engage in activities otherwise allowed on the refuge without a permit, such as subsistence and wildlife dependent recreation incidental to the authorized use. Such incidental uses may occur only when the permit holder is engaged in the authorized activity (commercial fishing) and only during the period of authorized cabin occupancy. Permittees and other authorized occupants engaging in incidental activities remain responsible for compliance with special use permit conditions, including the prohibition on creating attractive nuisances for bears and other wildlife.

### **Monitoring**

Kodiak Refuge staff will monitor activities associated with set-net cabin site use. On-site inspections will be done periodically and preferably annually to confirm that the permittee is in compliance with the special conditions of the permit and refuge regulations.

### Comparison of Commercial Fisheries Support Facilities Management Plans

Action	1987 Plan	2011 Plan
Season of Use	May 15 – September 15	Same
5-Year Permits	24 permits issued	Same
Annual Permits	None	3 annual permits available
Transfer of Permits	Not allowed	Same
Total Structures	4 structures per site	5 structures per site
Facility Repair	Permittee responsibility	Same
Ownership	Prior to December 2, 1980 Permit holder After December 2, 1980 New Cabins - Government	Same
Authorized Uses	Commercial Fishing	Same
Use of Refuge Lands	Existing garden plots authorized, no new plots authorized	200 square foot garden plot authorized for all sites

### Summary of Public Comments Received and Refuge Response

Public comment was solicited concurrently with the revision of the Management Plan. Set net site permittees, state and federal agencies and other interested entities were notified via letter in November 2007, of a public scoping meeting to be held on January 15, 2008. The intent of the meeting was to collect public input on changes needed to the 1987 plan. A public comment period was open from November 29, 2007, to February 15, 2008. The draft plan was released for public review in April 2010 with public comments accepted through mid-May 2010. A final public meeting was held April 27, 2010. Written and oral input was received (including a letter from the State of Alaska) and used to determine changes in management of these issues.

The list below outlines the issues that were submitted either verbally or in writing during January and February 2008, in the State of Alaska's May 14, 2010 letter, and verbally at the final public meeting in April 2010. The Refuge's response to those issues:

#### *Season of use*

**The season of use should be expanded from the existing one (May 15 to September 15) in order to prepare sites for the upcoming season and to stay longer to fish for late run salmon.**

Refuge staff have monitored the season of use and requests for occupancy outside the established season of use for the past several years. At this time, an expanded season of use does not appear to be warranted. In the event that a permittee needs additional time outside the specified period, they can request permission from the Refuge Manager. In

future years, if it becomes a common practice to fish for salmon later in the season, the management plan may be amended to accommodate this practice.

**The duration of occupancy should coincide with the season of use.**

We believe that the permitted occupancy period should cover the needs of the vast majority of permittees.

#### *Permits*

**There is concern about the special use permit fee increase and why refuge permit holders need to pay taxes on land owned by the government.**

The National Wildlife Refuge System Administration Act (16 U.S.C. 668dd) requires the Fish and Wildlife Service to collect fair market value for economic uses of refuge lands. The Service, in cooperation with the Department of the Interior Appraisal Services Directorate, has recently completed a process of appraising several set net sites on Kodiak and establishing an annual reserved site use (rental) fee based upon the appraised market values. If any permittee disagrees with the fee, they may contract their own Federally-approved site appraisal, and the Service will determine an annual use fee based upon the appraised value of the individual site.

Explanation and/or interpretation of the Kodiak Island Borough tax code is beyond the authority or expertise of the Refuge. Any such questions should be referred to the Borough Tax Assessor.

**Special use permits should be valid for 5 years.**

Special use permits for set net cabin sites are valid for 5 years and are renewable as long as the permittee continues to comply with permit terms and conditions, demonstrates a need for the facilities, and uses the facilities for the authorized purposes.

**Concerns were expressed about the Refuge potentially not renewing a site special use permit.**

Section 304(d) of ANILCA guarantees that cabins used to exercise valid commercial fishing rights will continue to be permitted pursuant to existing laws and subject to reasonable regulation. Also see the answer to the previous question.

**Questions were raised about why and how the total number of facilities is part of the permitting procedure.**

The Management Plan describes the number and size of facilities that are allowed.

### *Transfer*

**Permittees should be able to move to a different cabin site without having to sell their ADF&G permit.**

Under this plan permittees will not be required by the Refuge to sell their ADF&G set net permit(s) if they choose to purchase a different cabin site or exchange cabin sites.

### *Facilities*

**Permittees should be able to construct an additional building to house a generator and ice machine.**

This plan allows for an additional 100 square foot generator/ice house facility if 1 permit is being fished and up to a 200 square foot facility if 2 or more permits are being fished at a set-net site.

**The square footage of cabins should be increased.**

A considerable public input effort was conducted during the preparation of the 1987 Management Plan to determine the size of cabins and storage facilities needed to operate a set net site. This effort included field interviews, a mail survey, and a workshop. The current size limits were a result of that process. Although, larger facilities might be desirable and allow for greater comfort, the Refuge believes that it is in the best interest of achieving its primary mission "to conserve fish and wildlife populations and habitats in their natural diversity" to limit the size of facilities, number of occupants, and time of occupancy to that needed to conduct the fishery.

**Questions were raised regarding ownership of cabins.**

Additional information about ownership of cabins is provided in the Management Plan.

**Garden plots should be allowed at all sites.**

This plan allows a 200 square foot garden plot at each set net cabin site under a valid Special Use Permit.

### *General Comments*

**A concern was expressed that the Refuge, in revising the 1987 management plan, would prohibit the use of Refuge lands by set net fishermen.**

Section 304 (d) of ANILCA) guarantees the use of Federal lands for cabins used to exercise valid commercial fishing rights will continue to be permitted pursuant to existing laws and subject to reasonable regulation. This right cannot be withdrawn by an administrative decision by the Refuge Manager, Regional Director, or the Secretary of

the Interior. It could only be changed through a change in federal law which would require action by Congress and the President.

**Beach seiners need to be acknowledged in the plan.**

The Management Plan provides for the Refuge to annually issue up to three 1-year commercial fishing site permits for set net or beach seine activity using temporary facilities. This will provide an opportunity for beach seiners that has been absent in the past.

**Because the 1987 management plan is over 20 years old the bear section should be revised.**

Refuge and ADF&G – Division of Wildlife biologists have reviewed and updated the 1987 management plan (Appendix A: “Wildlife Interactions”). This section also cites the Kodiak Archipelago Bear Conservation and Management Plan (ADF&G 2002).

**The definition of “significant expansion of commercial fishing activities” expressed in Section 304 (d) of ANILCA should be more clearly defined.**

Clearly defining “significant expansion of commercial fishing activities” is problematic due to the multiple factors that could contribute to a potential expansion. Many parameters could be examined when attempting to quantify a significant expansion. However, the primary indicators are the number of fishing sites on Refuge lands, size and number of the set net facilities associated with the permits, and length of seasonal use. These three primary parameters and others are addressed in the 2011 Commercial Fisheries Support Facilities Management Plan. The Service would consider expansion of any one of these parameters beyond the levels identified in this plan to be significant.

**Commercial fishing cabins should be allowed to be used for subsistence purposes.**

Commercial fishing cabin permittees and occupants may participate in activities, including subsistence (if eligible), that are otherwise allowed on the refuge without a permit, incidental to the authorized commercial fishing and during the authorized period of cabin occupancy.

*Outside scope of Management Plan*

**There is concern that the new management plan will eliminate the Alaska limited entry permits.**

This management plan strictly deals with commercial fishing support sites on Refuge lands. It has no effect on State of Alaska limited entry fishing permits.

**Due to the complex nature of “new” vs. “old” cabins, permittees should be allowed to purchase those lands where their commercial cabins reside.**



The lands on which the set net support facilities reside are Federal lands within the Kodiak National Wildlife Refuge, administered by the U.S. Fish and Wildlife Service. We have no authority to sell refuge lands, except by special legislation. Congress has directed that refuge lands remain refuge lands.

**Permittees should be allowed to own set-net support facilities.**

Ownership of set net support facilities and other cabins on Refuges is prescribed by ANILCA and federal regulation at 50 CFR 36.33. Information from the federal regulation is provided above in the Management Plan under the topic Ownership of Facilities.

**Permittees should not have to pay taxes on commercial fishing cabins to Kodiak Island Borough.**

Policies, statutes, and authorities of the Kodiak Island Borough are beyond the scope and authority of this management plan.

**Motorized vehicles should be allowed at set net sites to move supplies and materials.**

Prior to the passage of ANILCA in 1980, motorized vehicles (e.g., ATV's) were not traditionally used in the set net fishery on Kodiak. They are not considered necessary and therefore will not be allowed on Refuge lands.

**Permittees are not being heard when issues have been brought up due to the turnover of Refuge Managers; it has been recommended to establish a committee (3 set-net permit holders) to discuss issues that come up.**

With respect to establishing advisory committees, the Fish and Wildlife Service and other federal agencies must comply with the Federal Advisory Committee Act which was enacted in 1972 to ensure that advice by various advisory committees formed over the years is objective and accessible to the public. The Act formalized a process for establishing, operating, overseeing, and terminating these advisory bodies. It would likely be administratively difficult to establish such a committee to advise the Refuge Manager on set net issues. However, the Refuge Manager is willing to meet with individuals or groups of set net permittees to discuss issues of mutual interest.

## **References**

National Archives and Records Administration, Code of Federal Regulations, accessible on the internet at <http://www.gpoaccess.gov/ecfr/>

U.S. Fish and Wildlife Service, Region 7 – Revised Comprehensive Conservation Plan, and Environmental Impact Statement, Kodiak National Wildlife Refuge, 2006



## **Appendix A – Wildlife Interactions**

### **Background**

The Kodiak brown bear is a world treasure. Hunters, photographers, and wildlife viewers from across the globe come to Kodiak to hunt or view our bears. Brown bears inhabit Kodiak, Afognak, Shuyak, Raspberry and several smaller islands of the Kodiak Archipelago. Kodiak is the largest of this island group and supports one of the highest known densities of brown bears in the world. The current estimated total population is about 3,000 bears on Kodiak Island and 3,500 bears for the entire Archipelago. The population is jointly managed by the Alaska Department of Fish and Game (ADF&G) and the U.S. Fish and Wildlife Service (Kodiak National Wildlife Refuge). Our primary management goals are to: (1) Maintain a stable brown bear population that will sustain an annual harvest of approximately 150 bears composed of at least 60% males; (2) Maintain a composition of gender and age classes that fosters a sustainable population; (3) Limit human-caused mortality of female brown bears to promote maximum productivity; (4) Minimize human-bear conflicts; and (5) Conserve or improve bear habitat. State and Federal managers and the public have made noteworthy progress towards these goals in recent decades. But the picture has not always been so encouraging.

Kodiak brown bears were commercially hunted for hides until 1925. Historically, cattle ranchers and commercial fishermen were at odds with bears since the arrival of these activities on the Archipelago. They commonly viewed bears as competitors. Hunting regulations were quite liberal. The situation became so dire by the 1930s that concerned hunters and conservationists pushed for the establishment of the Kodiak National Wildlife Refuge. Programs and practices promoting bear population control continued until the mid-1960s. Beginning in the 1960s regulations, including season length and area closures, were put into place to better manage the bear population. Positive results such as an increase in the bear population were becoming apparent by the 1970s when the modern area permit system was established.

In more recent years the Refuge has experienced additional human use including bear, deer, and goat hunting, sport fishing, bear-viewing, river rafting, and wildlife photography. The cumulative impacts of increased recreation, air traffic, commercial fishing, hunting, and other uses of Refuge lands may pose considerable challenges to Kodiak's brown bears. These increased activities may lead to displacement of bear from preferred resources or, in the worst case, in defense of life or property (DLP) bear mortalities. But through public education and appropriate management practices we can minimize these adverse impacts and maintain a stable and valuable bear population on the Archipelago.

### **Practices to Reduce Bear-Human Conflicts for Set-Net Sites**

Garbage, pet food, fish and fish wastes, and other bear attractants should be managed to reduce the potential for bear-human conflicts.

1. Combustible wastes should be daily incinerated as completely as possible in burn barrels. Make sure garbage is burned completely. The ADF&G web site -

## Appendix A – Wildlife Interaction

<http://www.wc.adfg.state.ak.us/index.cfm?adfg=bears.incinerators> - provides a list of incinerator vendors.

2. If open-pit sites are used for burning they should be surrounded by a bear-proof fence or other bear-proof enclosure.
3. Non-burnable wastes should be stored in bear-proof containers or buildings. Porches are not bear-proof.
4. Dog food or other pet food should be stored in bear-proof buildings or containers.
5. If pets are fed outside, uneaten pet food should be removed and stored in bear-proof containers or buildings.
6. Bird feeders should be avoided. They attract bears.
7. Barbecues can also be powerful attractants. Storing them in a protected place and burning off grease after each meal helps to discourage bears.
8. Fish wastes should be disposed of in a manner consistent with State and Federal regulations.
9. Solar powered electric fences are an excellent bear deterrent around camps. Information about equipment and suppliers are available from a number of sources. The references below provide outstanding guidelines for electric fencing and lists of solar fencing suppliers:

<http://wildlife.alaska.gov/index.cfm?adfg=bears.efences>

[http://www.absc.usgs.gov/research/brown\\_bears/safety/electric\\_fencing.htm](http://www.absc.usgs.gov/research/brown_bears/safety/electric_fencing.htm)

[http://www.lwwf.org/Living%20with%20Predators\\_resource\\_guides.htm](http://www.lwwf.org/Living%20with%20Predators_resource_guides.htm)

### Defense of Life and Property

By taking appropriate precautions and implementing the guidelines above, most bear-human conflicts can be avoided. If you do encounter a nuisance bear – a bear that is frequenting your set-net site, you should contact ADF&G, the Alaska State Troopers, or the Kodiak National Wildlife Refuge. Under some circumstances this is not possible. The ADF&G provides the following guidelines regarding Defense of Life and Property (2008-2009 Alaska Hunting Regulations: Governing General, Subsistence, and Commercial Uses of Alaska's Wildlife, 2008).

*You may kill a bear in defense of your life or property if you did not provoke an attack or cause a problem by negligently leaving human or pet food or garbage in a manner that attracts bears and if you have done everything else you can to protect your life and property (5 AAC 92.410).*

Property means your dwelling, means of travel, pets or livestock, fish drying racks, or other valuable property necessary for your livelihood or survival. While game meat is considered your property, you may not kill a bear to protect it unless the meat is critical for your livelihood or survival. Even in this situation you still must do everything possible to protect the meat before you may kill the bear.

If you have to shoot a bear, be sure you shoot to kill - wounded bears are potentially more dangerous than healthy bears. Also be very careful of what lies beyond your intended target - stray bullets can travel over a mile and still be deadly.

## Appendix A – Wildlife Interaction

Bears killed in defense of life or property belong to the state. If you kill a bear you must remove the hide and also salvage the skull. You must give both the hide, with claws attached, and the skull to ADF&G. You must also notify your local ADF&G Wildlife Conservation office or Alaska Wildlife Troopers immediately. You are required to fill out and submit a questionnaire concerning the circumstances within 15 days.

## **Appendix B – Invasive Species**

### **Purpose and Scope**

Since the last plan (1987) public awareness has increased regarding the adverse effects of introduced invasive non-native plants. Once established, invasive plant species tend to displace native species of plants and to degrade fish and wildlife habitat. As directed by the Refuge's Comprehensive Conservation Plan/Final Environmental Impact Statement (2007) and supported by the Refuge purposes, current invasive plant policy consists of: (1) preventing establishment of new populations of non-native invasive plants on Refuge lands, and (2) restoring native habitats presently impacted by existing populations of non-native invasive plants. This policy pertains to all Refuge lands including those used in support of commercial fishing activities as authorized by special use permit. The purpose of this section is to address management considerations pertaining to invasive plant species at set-net sites authorized by the Refuge.

### **Status of Invasive Non-Native Plants in the Kodiak Archipelago**

In 2003, the Kodiak Soil and Water Conservation District (District) began to inventory invasive plants, educate the public of the threat, and advise land management agencies and private landowners of management options. At the same time, the Refuge started an invasive plant species program. Initial focus was collaboration on outreach with the District, and control of an infestation of orange hawkweed at Camp Island in Karluk Lake. Presently, the District has inventoried Kodiak and outlying village communities and most occupied coastal sites on and adjacent to the Refuge.

Inventory results indicated that several non-native, invasive plant species occur in the Kodiak Archipelago. Most of these occurred within and around towns and villages, particularly Kodiak, Port Lions, and Ouzinkie. Species such as orange hawkweed were quite abundant and widely distributed, while others--such as Canada thistle, yellow toadflax, and Japanese knotweed—had more limited distribution mainly in and around towns. Surveys of private and Refuge coastal lands revealed small infestations of Canada thistle, bull thistle, oxeye daisy, orange hawkweed, creeping buttercup, and knotweed. Management actions have been taken, or are being planned, to eradicate these infestations.

### **Invasive Plant Management at Set-net Sites**

Set-net sites are the primary commercial fishing related activity authorized on Refuge lands. The following section describes the range of actions the Refuge will undertake to (1) prevent establishment of new populations of invasive plant species at set-net sites and (2) restore native habitat via control measures where populations of invasive plant species are documented to occur. Specific actions will include: outreach, inventory and survey, control as appropriate, and addition of a new condition to special use permits.

## Appendix B – Invasive Species

Outreach, coordinated between the Refuge and District, will consist of contact with permittees, notification of general concern, provision of species identification information, and exchange of information. Permittees were first notified of the Refuge's concerns regarding invasive plants at a January 2008 scoping meeting and in a letter released with the draft of this plan. Additional information will be provided to permittees, and opportunities for information exchange will occur.

To date, most of the 24 set-net sites on the Refuge have been visited and surveyed for non-native invasive plants. Surveys included inspection of land in and around facilities at each site and provision of information regarding invasive plants to permit holders. If invasive plants were found, location and distribution of the infestation were described in notes, photos, and GPS coordinates. Documented infestations will be resurveyed when control action is taken, duration of which may range from 2-7 years--depending on the invasive plant species, as well as the age and size of the infestation. Control action will stop when evidence indicates that the species is not detected for three consecutive years. Sites initially identified as un-infested in 2008 will be resurveyed in 2016 or upon notification by a permittee.

Framework and guidance for specific control action will be documented in an Integrated Pest Management Plan (IPM) prepared with appropriate National Environmental Policy Act (NEPA) compliance. IPM plans define: 1) the location and extent of infestation; 2) best strategy to deal with the invasive species based on evaluation of feasibility, effectiveness, safety considerations, and environmental costs of different control options; and 3) method for evaluating success. Presently the Refuge has completed IPM plans for orange hawkweed (Camp Island), Canada thistle (Garden Island), and oxeye daisy (Refuge Headquarters) and is completing a NEPA document to address continuation of control efforts and initiation of new control efforts. If surveys of set-net sites reveal invasive plant infestations, existing IPM plans will be amended or created as necessary. If herbicide is determined to be the only effective way to control an infestation, a Service Pesticide Use Proposal (PUP) would be completed after or concurrent with appropriate NEPA compliance. The PUP is required because use of herbicides, involves extra considerations and precautions to ensure safe storage, transportation, and use.

Once agency plans are authorized, control will take place. Prior to visiting a site, the set-net operator will be notified. Control action will be coordinated to minimize interference with site use by the permittee. Visual monitoring of response to control will be coordinated between parties to maximize efficient use of resources.

To minimize the potential for future introductions of invasive plants at set-net sites, this revised plan will require compliance with a new special condition in special use permits specifying that introduction of non-native plants, except annual garden vegetables in garden plots, is prohibited.

## **Appendix C – Federal Regulations Pertaining to Cabins on Refuges**

### **Title 50: Wildlife and Fisheries**

#### **PART 36—ALASKA NATIONAL WILDLIFE REFUGES**

##### **36.33 What do I need to know about using cabins and related structures on Alaska National Wildlife Refuges?**

**(a) Definitions – As used in this section, the term:**

*Administrative cabin* shall mean any cabin only used by refuge or other authorized personnel for the administration of the refuge.

*Cabin* shall mean a small, usually single-story, three or more sided structure that is permanently and completely enclosed with a roof and walls. The roof and walls are not fabric, cannot be easily disassembled, and are not removed seasonally.

*Commercial cabin* shall mean any cabin which is used in association with a commercial operation including but not limited to commercial fishing activities and recreational guiding services.

*Existing cabin* shall mean any cabin situated on Federal lands before December 2, 1980. A cabin legally situated on lands that subsequently become refuge will also be considered an “existing” cabin providing the applicant meets the appropriate application deadlines.

*Family* shall include the spouse (including what is known as a common-law relationship), children by birth or adoption, and other blood relatives within the second degree of kindred.

*Guest* shall mean a person who occasionally visits the permittee in the cabin. This term does not include clients using commercial cabins.

*Immediate family* shall include the spouse and children, either by birth or adoption, of the claimant residing in the cabin or structure.

*New cabin* shall mean any permitted cabin constructed on refuge lands after December 2, 1980. This may also include a cabin whose claimant failed to meet the application deadline for existing cabins but is otherwise a permitted cabin.

*Other related structures* shall mean those structures or devices essential to the activities for which the cabin special use permit is issued. This includes but is not limited to outdoor toilets, food caches, storage sheds, and fish drying racks.

*Private recreational use* shall mean a use associated with leisure activities, not including bona fide subsistence uses or authorized commercial uses.



*Public use cabin* shall mean a cabin owned and administered by the Fish and Wildlife Service and available for use by the public.

(b) *All cabins.* The regulations in this paragraph (b) shall apply to all cabins, claimants, occupants, and guests. The regulations in this paragraph (b) do not apply to temporary facilities: any structure or man-made improvement which can readily be completely dismantled and removed from the site when the period of authorized use is terminated.

(1) A special use permit is required to construct, use and/or occupy a cabin on Fish and Wildlife Service lands within the refuge. The permit may also authorize the use of related structures and other necessary appurtenances.

(2) After adequate public notice has been given, unclaimed cabins become the property of the Federal Government. Adequate public notice shall include: Posting notices of trespass on unclaimed cabins; publication of notices of trespass in Anchorage and Fairbanks newspapers and in at least one local newspaper if available; and posting notices of trespass at appropriate community post offices. A Government-owned cabin may be used for refuge administration, used for emergency purposes by the public, permitted to another applicant, designated a public use cabin, or destroyed. Disposal of excess cabins and structures will be according to regulations pursuant to title 41, chapter 114 of the Code of Federal Regulations.

(3) Willful noncompliance with the conditions and stipulations of a special use permit shall be considered grounds to invoke the administrative process leading to notice and hearing, and possible revocation of the permit. The refuge manager will attempt to resolve problems of noncompliance with the permittee as soon as possible after the situation becomes known. If this effort fails, the refuge manager shall provide written notice to the permittee within 30 days of that date, informing the permittee of noncompliance, giving specific instructions for compliance and providing appropriate time for the permittee to comply.

(4) No special use permit will be issued for the construction of a cabin for private recreational use or for the private recreational use of an existing cabin.

(5) Guests are allowed to occupy a cabin only during the activity period identified on the special use permit. Guests occupying a cabin during the absence of the permittee shall obtain a letter of authorization from the permittee. The guest must have a copy of the letter in his/her possession. In commercial cabins, the permittee or another person listed on the permit must be present when the cabin is occupied by guests or clients.

(6) A person whose permit application (new or renewal) for a cabin has been denied or whose cabin permit has been revoked by the refuge manager may appeal to the Regional Director as described in 36.41(b).

(c) *Existing cabins*: In addition to paragraph (b) of this section, the regulations in this paragraph (c) shall apply to all existing cabins, claimants, occupants, and guests.

(1) Where a valid cabin permit or lease was in effect on December 2, 1980, or at the time the land was subsequently added to the refuge, the refuge manager shall provide for the continuation of the permit or lease under the same conditions. The new permit shall be nontransferable and renewable every five years unless the continuation would directly threaten or impair the purposes for which the refuge was established. The cabin and related structures are the personal property of the claimant and can be removed by him/her upon non-renewal or revocation. The owner of a cabin may sell his/her interest in the cabin to another person; however, the new owner does not automatically qualify for a permit and must apply for a new one.

(2) To obtain a special use permit for a cabin that was not under permit or lease before December 2, 1980, or at the time the land was subsequently added to the refuge, a claimant should submit to the refuge manager an application that includes the following:

- i. Reasonable proof of possessory interest or right to occupy the cabin as shown by affidavit, bill of sale, or other document.
- ii. Date of construction or acquisition.
- iii. A sketch or photograph that accurately depicts the cabin and related structures.
- iv. The dimensions of the cabin and related structures.
- v. A U.S. Geological Survey topographic map that shows the geographic location of the cabin and related structures.
- vi. The claimant's agreement to vacate and remove all personal property from the cabin and related structures within one year from receipt of a non-renewal or revocation notice.
- vii. The claimant's acknowledgment that he/she has no legal interest in the real property on which the cabin and related structures are located.
- viii. A list of family members residing with the claimant in the cabin being applied for. It need only include those immediate family members who may be eligible to renew a permit for continued use and occupancy upon the original claimant's death (this is not applicable to cabins used for commercial purposes).

(3) Applications for permits for existing cabins, which are not currently under valid permits, will only be accepted for a period of one year following the effective date of these regulations. However, cabins that were legally located on lands that subsequently become refuge will also be considered “existing” cabins. The owners will have two years following the date the lands become refuge to apply for a permit. Following those dates, all applications for cabins will be for “new” cabins only, no matter when the cabin was built or first used. If ownership is not established within three years after the land becomes refuge, the cabin may be considered abandoned, and it will become Federal property in accordance with Federal regulations.

(4) The occupancy of a noncommercial cabin is limited to the permittee and his/her family, bona fide partners, and guests.

(5) Major modification or rehabilitation of an existing cabin must be approved by the refuge manager before construction begins. The modifications will be done by the permittee or designated agent and will remain the property of the permittee. Major additions (e.g., larger than the original cabin) may fall under the ownership provisions for new cabins. Although cabins destroyed by accidents, vandalism or natural causes may be reconstructed, they must be approved by the refuge manager before construction and must meet the construction guidelines for new cabins, even though remaining the property of the claimant.

(d) *New cabins*: In addition to paragraph (b) of this section, the regulations in this paragraph (d) shall apply to all new cabins, claimants, occupants, and guests.

(1) A nontransferable, five year special use permit shall only be issued upon a determination that the proposed construction, use and maintenance of the cabin is compatible with refuge purposes and that the cabin use is either directly related to refuge administration or is needed for continuation of an ongoing activity or use otherwise allowed within the refuge where the applicant lacks a reasonable off-refuge site. In addition, these activities must have historically been supported by the construction and use of cabins in the geographic area. In general, new cabin permits will be given only to local residents to pursue a legitimate subsistence activity. In determining whether to permit the construction, use, and occupancy of cabins or other structures, the refuge manager shall be guided by factors such as other public uses, public health and safety, environmental and resource protection, research activities, protection of historic or scientific values, subsistence uses, endangered or threatened species conservation and other management considerations necessary to ensure that the activities authorized pursuant to a permit are compatible with the purposes for which the refuge was established.

(2) To obtain a special use permit for a new cabin, an applicant should submit to the refuge manager an application that includes the following:

- i. A sketch that accurately depicts the proposed cabin and related structures.
- ii. The dimensions of the proposed cabin and related structures.
- iii. A U.S. Geological Survey topographic map that shows the geographic location of the proposed cabin and related structures.
- iv. The applicant's agreement to vacate and remove all personal property from the cabin and related structures within one year from receipt of a non-renewal or revocation notice.
- v. The applicant's acknowledgment that he/she has no legal interest in the cabin and related structures or in the real property on which the cabin and related structures are located.
- vi. A list of family members residing with the applicant in the cabin being applied for. It need only include those immediate family members who may be eligible to renew a permit for continued use and occupancy upon the original claimant's death.

(3) The permitting instrument shall be a nontransferable renewable five year special use permit. It shall be renewed every five years (upon request) until the death of the original claimant's last immediate family member unless the special use permit has been revoked or the cabin has been abandoned.

(4) No new cabins will be constructed in designated wilderness areas unless they are built specifically for the administration of the area, for public safety, or for trapping where trapping has been a traditional and customary use.

(5) New trapping cabins in wilderness will be available for public use to ensure public health and safety.

(6) The occupancy of a noncommercial cabin is limited to the permittee, and his/her family, bona fide partners, and guests.

(c) *Commercial cabins:* In addition to paragraph (b) of this section, the regulations in this paragraph (e) shall apply to all commercial cabins, permittees, clients, guests, and occupants.

(1) A special use permit is required for all cabins used for commercial purposes. Refuge managers may also issue special use permits that authorize additional commercial use of an existing cabin used for guiding, etc. The use of a new cabin shall be limited to the type of use specified in the original permit. The refuge manager may permit the use of an existing cabin on non-wilderness refuge lands for the exercise of valid commercial fishing rights. Such a permit may be denied if, after conducting a public hearing in the affected locality, it is found that the use is inconsistent with refuge purposes and is an increased expansion of commercial fishing activities within the unit beyond 1979 levels.

(2) When the commercial fishing or guiding rights associated with a permittee's existing cabin are acquired by a new party, the privilege of using the cabin cannot be sold and the new party does not necessarily qualify for a cabin permit. He/she must apply for a permit and meet the criteria described in this paragraph (e) before issuance of a special use permit by the refuge manager. He/she may not occupy the cabin before issuance of a permit.

(3) No new commercial cabins will be permitted in wilderness areas.

(4) Commercial cabins may be occupied only by persons legitimately involved in the commercial enterprise, assistants, employees, their families, guests and clients and only during the time that the authorized activity is occurring. The names of those individuals, excluding guests and clients, will be listed on the permit. The permittee or another individual listed on the permit must be present when the cabin is occupied.

(5) Special use permits for commercial cabins may be renewed annually in conjunction with the special use permit renewal for the commercial activity itself. The cabin permit

may be issued for periods of up to five years and is a separate permit from one issued for the commercial activity.

(f) *Administrative and government-owned public use cabins.* In addition to paragraph (a) of this section, the regulations in this paragraph (f) apply to all administrative and government-owned cabins.

(1) The refuge manager can designate those cabins not under permit as administrative cabins to be used for official government business. Administrative cabins may be used by the public during life-threatening emergencies. On a case-by-case basis, they may also be designated as public use cabins when not needed for government purposes. In such cases, the refuge manager must inform the public and post dates or seasons when the cabins are available.

(2) The refuge manager may designate government-owned cabins as public use cabins. They are only intended for short-term public recreational use and occupancy. The refuge manager may develop an allocation system for managing public use cabins for short-term recreational use. No existing public use cabins shall be removed or new public use cabins constructed within wilderness areas designated by the Alaska National Interest Lands Conservation Act of 1980 or subsequently designated wilderness areas until the Secretary of the Interior notifies the House Committee on Interior and Insular Affairs and the Senate Committee on Energy and Natural Resources.

[59 FR 38314, July 27, 1994, as amended at 64 FR 14151, Mar. 24, 1999]

## Appendix D – Special Use Permit Example

## *Appendix D – Special Use Permit Example and Special Conditions for Set Net and Beach Seiner permit holders*

### **Notice**

In accordance with the Privacy Act (5 U.S.C. 552a) and the Paperwork Reduction Act (44 U.S.C. 3501), please note the following information:

1. The issuance of a permit and collection of fees on lands of the National Wildlife Refuge System is authorized by the National Wildlife Refuge System Administration Act (16 U.S.C. 668dd-ee) as amended, and the Refuge Recreation Act (16 U.S.C. 460k-460k-4).
2. The information that you provide is voluntary; however submission of requested information is required to evaluate the qualifications, determine eligibility, and document permit applicants under the above Acts. It is our policy not to use your name for any other purpose. The information is maintained in accordance with the Privacy Act. All information you provide will be considered in reviewing this application. False, fictitious, or fraudulent statements or representations made in the application may be grounds for revocation of the Special Use Permit and may be punishable by fine or imprisonment (18 U.S.C. 1001). Failure to provide all required information is sufficient cause for the U.S. Fish and Wildlife Service to deny a permit. Response is not required unless a currently valid Office of Management and Budget (OMB) control number is displayed.
3. No members of Congress or Resident Commissioner shall participate in any part of this contract or to any benefit that may arise from it, but this provision shall not pertain to this contract if made with a corporation for its general benefit.
4. The Permittee agrees to be bound by the equal opportunity "nondiscrimination in employment" clause of Executive Order 11246.
5. Routine use disclosures may also be made: (a) to the U.S. Department of Justice when related to litigation or anticipated litigation; (b) of information indicating a violation or potential violation of a statute, rule, order, or license to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulations, order, or license; (c) from the record of the individual in response to an inquiry from a Congressional office made at the request of the individual (42 FR 19083; April 11, 1977); and (d) to provide addresses obtained from the Internal Revenue Service to debt collection agencies for purposes of locating a debtor to collect or compromise a Federal Claim against the debtor, or to consumer reporting agencies to prepare a commercial credit report for use by the Department (48 FR 54716; December 6, 1983).
6. An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. This information collection has been approved by OMB and assigned control number 1018-0102. The public reporting burden for this information collection varies based on the specific refuge use being requested. The relevant public reporting burden estimate for the Special Use Permit Application form is estimated to average one hour per response, including time for reviewing instructions, gathering and maintaining data, and completing and reviewing the form. Comments on this form should be mailed to the Information Collection Clearance Officer, Mail Stop 222, Arlington Square, U.S. Fish and Wildlife Service, Arlington, Virginia, 22203. Thank you.

### **General Conditions and Requirements.**

1. **Responsibility of Permittee:** The permittee, by operating on the premises, shall be considered to have accepted these premises with all facilities, fixtures, or improvements in their existing condition as of the date of this permit. At the end of the period specified or upon earlier termination, the permittee shall give up the premises in as good order and condition as when received except for reasonable wear, tear, or damage occurring without fault or negligence. The permittee will fully repay the Service for any and all damage directly or indirectly resulting from negligence or failure on his/her part, and/or the part of anyone of his/her associates, to use reasonable care.
2. **Operating Rules and Laws:** The permittee shall keep the premises in a neat and orderly condition at all times, and shall comply with all municipal, county, and State laws applicable to the operations under the permit as well as all Federal laws, rules, and regulations governing national wildlife refuges and the area described in this permit. The permittee shall comply with all instructions applicable to this permit issued by the refuge official in charge. The permittee shall take all reasonable precautions to prevent the escape of fires and to suppress fires and shall render all reasonable assistance in the suppression of refuge fires.
3. **Use Limitations:** The permittee's use of the described premises is limited to the purposes herein specified and does not, unless provided for in this permit, allow him/her to restrict other authorized entry onto his/her area; and permits the Service to carry on whatever activities are necessary for: (1) protection and maintenance of the premises and adjacent lands administered by the Service; and (2) the management of wildlife and fish using the premises and other Service lands.
4. **Transfer of Privileges:** This permit is not transferable, and no privileges herein mentioned may be sublet or made available to any person or interest not mentioned in this permit. No interest hereunder may accrue through lien or be transferred to a third party without the approval of the Regional Director of the Service and the permit shall not be used for speculative purposes.
5. **Compliance:** The Service's failure to require strict compliance with any of this permit's terms, conditions, and requirements shall not constitute a waiver or be considered as a giving up of the Service's right to thereafter enforce any of the permit's terms or conditions.
6. **Conditions of Permit not Fulfilled:** If the permittee fails to fulfill any of the conditions and requirements set forth herein, all money paid under this permit shall be retained by the Government to be used to satisfy as much of the permittee's obligation as possible.
7. **Payments:** All payment shall be made on or before the due date to the local representative of the Service by a postal money order or check made payable to the U.S. Fish and Wildlife Service.

## *Appendix D – Special Use Permit Example and Special Conditions for Set Net and Beach Seiner permit holders*

8. **Termination Policy:** At the termination of this permit the permittee shall immediately give up possession to the Service representative, reserving, however, the rights specified in paragraph 11. If he/she fails to do so, he/she will pay the government, as liquidated damages, an amount double the rate specified in this permit for the entire time possession is withheld. Upon yielding possession, the permittee will still be allowed to reenter as needed to remove his/her property as stated in paragraph 11. The acceptance of any fee for the liquidated damages or any other act of administration relating to the continued tenancy is not to be considered as an affirmation of the permittee's action nor shall it operate as a waiver of the Government's right to terminate or cancel the permit for the breach of any specified condition or requirement.

9. **Revocation Policy:** This permit may be revoked by the Regional Director of the Service without notice for noncompliance with the terms hereof or for violation of general and/or specific laws or regulations governing national wildlife refuges or for nonuse. It is at all times subject to discretionary revocation by the Director of the Service. Upon such revocation the Service, by and through any authorized representative, may take possession of the said premises for its own and sole use, and/or may enter and possess the premises as the agent of the permittee and for his/her account.

10. **Damages:** The United States shall not be responsible for any loss or damage to property including, but not limited to, growing crops, animals, and machinery or injury to the permittee or his/her relatives, or to the officers, agents, employees, or any other who are on the premises from instructions or by the sufferance of wildlife or employees or representatives of the Government carrying out their official responsibilities. The permittee agrees to save the United States or any of its agencies harmless from any and all claims for damages or losses that may arise to be incident to the flooding of the premises resulting from any associated Government river and harbor, flood control, reclamation, or Tennessee Valley Authority activity.

11. **Removal of Permittee's Property:** Upon the expiration or termination of this permit, if all rental charges and/or damage claims due to the Government have been paid, the permittee may, within a reasonable period as stated in the permit or as determined by the refuge official in charge, but not to exceed 60 days, remove all structures, machinery, and/or equipment, etc. from the premises for which he/she is responsible. Within this period the permittee must also remove any other of his/her property including his/her acknowledged share of products or crops grown, cut, harvested, stored, or stacked on the premises. Upon failure to remove any of the above items within the aforesaid period, they shall become the property of the United States.

12. **Collected Specimens:** You may use specimens collected under this permit, any components of any specimens (including natural organisms, enzymes, genetic materials or seeds), and research results derived from collected specimens for scientific or educational purposes only, and not for commercial purposes unless you have entered into a Cooperative Research and Development Agreement (CRADA) with us. We prohibit the sale of collected research specimens or other transfers to third parties. Breach of any of the terms of this permit will be grounds for revocation of this permit and denial of future permits. Furthermore, if you sell or otherwise transfer collected specimens of any components without a CRADA, you will pay us a royalty rate of 20 percent of the gross revenue from such sales. In addition to such royalty, we may seek other damages and injunctive relief against you.

### **Instructions for Completing Application:**

You may complete the application portion electronically and submit to the refuge for review.

1. Enter the name of the refuge at which you are applying for a permit.
2. Under Application Date, fill in the date of application.
3. Under Period of Use, fill in the date(s) for which the activity is requested (inclusive)
4. Under Applicant Information, fill in your name, organization (if applicable), address, phone, fax, and email.
5. Under Purpose, check one of the following categories:
  - a. Agriculture - haying, grazing, crop planting, logging, beekeeping, and other agricultural products.
  - b. Commercial activities - commercial fishing, trapping, and other commercial activities.
  - c. Research/Monitoring - any investigations or monitoring projects proposed for the refuge.
  - d. Commercial filming - audio, video, and photographic products with a monetary value.
  - e. Commercial visitor services - outfitters/guides, for hunting, fishing, canoeing, kayaking; and other visitor services.
  - f. Special Events - weddings, fishing tournaments, one-time events, and other special events.
  - g. Other - specify any other activity(ies) not mentioned above.
6. Under Describe the Above Activity, provide detailed information on the activity, including locations, times, methods, routes of travel, number of people, types and number of vehicles, etc. If you are proposing a research project, you may be asked to submit a research proposal. Contact the refuge for details.
7. Click on the Print button to print the application (if using the fillable version).
8. Under Applicant Signature and Date, sign and date the application, then submit to the refuge per their instructions (fax, mail, in-person)
9. The refuge official will review and, if approved, fill out the remaining information, sign, and return a copy to you.

**The form is not valid as a permit unless it includes refuge approval, a station number, a refuge-assigned permit number, and is signed by a refuge official.**



**KODIAK NATIONAL WILDLIFE REFUGE  
GENERAL SPECIAL CONDITIONS  
SET NET SITE – COMMERCIAL FISHING**

**Regional conditions**

1. Failure to abide by any part of this special use permit; violation of any refuge related provision in Titles 43 or 50, Code of Federal Regulations; or violation of any pertinent state regulation (e.g. fish or game violation) will be considered grounds for immediate revocation of this permit and could result in denial of future permit requests for lands administered by the U.S. Fish and Wildlife Service. This provision applies to all persons working under the authority of this permit (e.g. assistants or contractors.) Appeals of decisions relative to permits are handled in accordance with 50 Code of Federal Regulations 36.41.
2. The permittee is responsible for ensuring that all employees, party members, contractors, aircraft pilots, and any other persons working for the permittee and conducting activities allowed by this permit are familiar with and adhere to the conditions of this permit.
3. Any problems with wildlife and/or animals taken in defense of life or property must be reported immediately to the Refuge Manager, the Alaska Department of Fish and Game, Alaska State Troopers. Animals taken must be salvaged in accordance with State regulations.
4. The permittee and the permittee's employees do not have the exclusive use of the site(s) or lands covered by the permit.
5. This permit may be canceled or revised at any time by the Refuge Manager for non-compliance or in case of emergency (e.g. public safety, unusual resource problems, etc.)
6. Prior to beginning any activities allowed by this permit, the permittee shall provide the Refuge Manager with: (1) name and method of contact for the field party chief/supervisor; aircraft and other vehicle types to be used, identification information for these vehicles; and names of crew members, and (2) any changes in information provided in the original permit application.
7. In accordance with the Archeological Resources Protection Act (16 U.S.C. 470aa), the disturbance of archaeological or historical sites and the removal of artifacts is prohibited.  
The excavation, disturbance, collection, or purchase of historical, recent, ethnological, or archaeological specimens or artifacts is prohibited.

*Appendix D – Special Use Permit Example and Special Conditions for Set Net and Beach Seiner permit holders*

8. Permittees shall maintain their use areas in a neat and sanitary condition. Latrines must be located at least 150 feet from springs, lakes, and streams. All property of the permittee except for cabins and tent frames is to be removed from Refuge lands upon completion of permitted activities.
9. The construction of landing strips or pads is prohibited.
10. The use of motorized vehicles (except snow machines) is prohibited except in designated areas.
11. Unauthorized caches of fuel or other supplies are prohibited. Fuel storage, if any, will be in compliance with Regional Service Fuel Storage Policy.
12. Any major exterior rehabilitation of or additions to existing structures must have the refuge manager's prior approval in writing. This does not include minor remodeling or routine maintenance.
13. Subject to available suppression resources, all permitted cabins will be protected from wildfire to the extent possible. Human safety will receive the highest priority consideration by land managers and fire suppression personnel.

**Kodiak Refuge conditions**

14. This permit does not authorize any entry upon or activities within any lands not under the jurisdiction of the U.S. Fish and Wildlife Service.
15. Use of Native or State lands that have been selected but not yet conveyed is prohibited unless a letter of concurrence is submitted to the Refuge Manager prior to beginning any activities allowed by this permit.
16. A copy of this special use permit must be in the permittee's possession at all times while exercising the privileges of the permit.
17. Food or garbage attractive to bears or other wildlife will be immediately disposed of. No attractive nuisance for bears or other wildlife shall be created by food storage, improper disposal of garbage (includes of burying of garbage), fish smoking, salting, drying, or other uses.
18. Combustibles (paper, wood, etc.) may be burned, but all other debris, including cans, bottles, fuel containers, and any other noncombustible material shall be removed and disposed of off Refuge when departing camps.
19. Any action by a permittee or the permittee's employees that unduly interferes with or harasses other Refuge visitors or impedes access to any site is strictly prohibited. Examples of prohibited acts include, but are not limited to, low flights over camps or persons less than 500 feet (unless landing) and parking aircraft or

*Appendix D – Special Use Permit Example and Special Conditions for Set Net and Beach  
Seiner permit holders*

- placing other objects on any landable area to restrict use by other aircraft or persons.
20. The discharge of firearms is prohibited, except in conjunction with authorized hunting seasons or for protection of life or property.
  21. This is a permit for the specific approved commercial use from a designated site. No permitted cabin (site) may be used for recreational purposes, and no cabin may be sublet or rented.
  22. Endorsement of this permit signifies the permittee's understanding and concurrence with all the conditions set forth in the General Conditions found on the reverse side of the permit and the above Special Conditions.

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Signature of Permittee

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Date

BEACH SEINER OR TEMPORARY CAMP SPECIAL CONDITIONS

KODIAK NATIONAL WILDLIFE REFUGE

1. Failure to abide by any part of this special use permit; violation of any refuge related provision in Titles 43 or 50, Code of Federal Regulations; or violation of any pertinent state regulation (e.g. fish or game violation) will be considered grounds for immediate revocation of this permit and could result in denial of future permit requests for lands administered by the U.S. Fish and Wildlife Service. This provision applies to all persons working under the authority of this permit (e.g. assistants or contractors). Appeals of decisions relative to permits are handled in accordance with 50 Cod of Federal Regulations 36.41.
2. The permittee is responsible for ensuring that all employees, party members, contractors, aircraft pilots, and any other persons working for the permittee and conducting activities allowed by this permit are familiar with and adhere to the conditions of this permit.
3. This permit may be cancelled or revised at any time by the refuge manager for non-compliance or in case of emergency.
4. The permittee and permittee's clients do not have the exclusive use of the site(s) or lands covered by the permit.
5. A copy of this Special Use Permit must be in the party leader's possession at all times while exercising the privileges of the permit.
6. Prior to the beginning of the fishing season, the permittee shall provide the refuge manager with the names of assistants and helpers and the tenders/canneries where messages can be relayed.
7. Any problems with wildlife and/or animals taken in defense of life or property must be reported immediately to the refuge manager, the Alaska Department of Fish and Game, and salvaged in accordance with state regulations.
8. In accordance with the Archaeological Resource Protection Act (16 U.S.C. 470aa), the disturbance of archaeological or historical sites and the removal of artifacts is prohibited. The excavation, disturbance, collection, or purchase of historical, recent, ethnological, or archaeological specimens or artifacts is prohibited.
9. Permittee's shall maintain their use areas in a neat and sanitary condition. Latrines must be located at least 150 feet from springs, lakes, and streams. All property of the permittee, including non-combustible waste materials, is to be removed from refuge lands upon completion of permitted activities.

*Appendix D – Special Use Permit Example and Special Conditions for Set Net and Beach  
Seiner permit holders*

10. Food or garbage attractive to bears or other wildlife will be immediately disposed of. No attractive nuisance for bears or other wildlife shall be created by food storage, improper disposal of garbage, fish smoking, and salting, drying, or other uses. Combustibles (paper, wood, plastic, etc.) may be burned but all other debris including cans, bottles, fuel containers, and any other non-combustible material shall be removed when departing camps and disposed off refuge.
11. Cabins on refuge lands shall not be used by the permittee without the permission of the refuge manager except in cases of dire emergency for survival purposes. Construction of cabins or other permanent structures is prohibited.
12. The operation of aircraft at altitudes and in flight paths resulting in the herding, harassment, hazing, or driving of wildlife is prohibited. It is recommended that all aircraft, except for takeoff and landing, maintain a minimum altitude of 2,000 feet above the ground level.
13. Unauthorized caches of fuel or other supplies are prohibited. Fuel storage, if any, will be in compliance with section in the Commercial Fisheries Support Facilities Management Plan. Refuge Managers approval is required before installation of any fuel tanks.
14. Compliance with provisions of the Eagle Protection Act resides with the permittee. Camps must be established at least 1,320 feet (0.25 miles) from eagle nests. Indications of significantly disturbed behavior include the giving of alarm calls, flushing birds from the nest or perch, and aggressive behavior by the birds.
15. One temporary facility will be authorized for each permit. In addition, all temporary facilities must be removed from Refuge lands at the end of the fishing season.
16. For overnight tent camps, maximum party size may not exceed six (6) persons, including the permittee and assistants. The refuge manager may restrict use of some sites for overnight camping to prevent resource problems or conflicts.
17. Permittee must notify the Refuge Manager three days in advance of each move of campsite. This will be done through the tender or one of the canneries. Permittee will also leave word as to where the Refuge can return a message.
18. The introduction of non-native plants or wildlife is prohibited.
19. Domestic Livestock including, but not limited to cows, horses, goats, sheep, poultry, and swine are prohibited on the refuge.
20. Pets are allowed but no more than two dogs and two cats. Pets must be under the immediate supervision of their owner and not allowed to roam unconfined or disturb wildlife.

*Appendix D – Special Use Permit Example and Special Conditions for Set Net and Beach  
Seiner permit holders*

21. Because the specific purpose of the special use permit is to authorize commercial fishing operations, occupants must vacate their permitted site within 7 days of the final seasonal closure on the species they intend to fish or September 30, whichever is earlier, unless they have permission from the refuge manager to remain longer.

22. Endorsement of this permit signifies the permittee's understanding and concurrence with all the conditions set forth in the General Conditions found on the reverse side of the permit and the above Special Conditions.

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Signature of Permittee

Date

**Appendix E – Moderate Management Map**





## **COMPATIBILITY DETERMINATION**

**Use:** Commercial Fishing

**Primary Use:** Fishing (commercial)

**Supporting Uses:** Boating (electric and wind-driven), boating (human-powered), boating (motorized), fishing (general), fishing (other), hunting (big game), hunting (other migratory birds), hunting (upland game), hunting (waterfowl), hunting (other), plant gathering, natural resource collecting, camping, hiking and backpacking, pets, photography, swimming and beach use, outdoor recreation (other), fishing (subsistence), gathering (subsistence), hunting (subsistence), subsistence (other), photography (wildlife), wildlife observation, fixed-wing aircraft, tree harvest (firewood).

**Refuge Name:** Kodiak National Wildlife Refuge

### **Establishing and Acquisition Authorities**

Original authority was Executive Order 8857 (1941); modified by Public Land Order 1634 (1958), Alaska Native Claims Settlement Act (1971), and Alaska National Interest Lands Conservation Act (1980).

### **Refuge Purposes**

Executive Order 8857 established Kodiak National Wildlife Refuge “. . . for the purpose of protecting the natural feeding and breeding ranges of the brown bears and other wildlife on Uganik and Kodiak Islands . . .”

Section 303(5)(B) of ANILCA states the following:

“The purposes for which the Kodiak National Wildlife Refuge is established and shall be managed include

- (i) to conserve fish and wildlife populations and habitats in their natural diversity including, but not limited, to Kodiak brown bears, salmonids, sea otters, sea lions, and other marine mammals and migratory birds;
- (ii) to fulfill the international treaty obligations of the United States with respect to fish and wildlife and their habitats;
- (iii) to provide, in a manner consistent with purposes set forth in subparagraphs (i) and (ii), the opportunity for continued subsistence uses by local residents; and
- (iv) to ensure, to the maximum extent practicable and in a manner consistent with the purposes set forth in subparagraph (i), water quality and necessary water quantity within the refuge.”

### **National Wildlife Refuge System Mission**

The mission of the National Wildlife Refuge System is to administer a national network of lands and waters for the conservation, management, and, where appropriate, restoration of the fish, wildlife, and plant resources and their habitats within the United States for the benefit of present and future generations of

Americans (National Wildlife Refuge System Administration Act of 1966, as amended [16 U.S.C.668dd-668ee]).

### Description of Use(s)

This determination re-evaluates commercial fishing and facilities related to commercial fishing on the Refuge as described in the 1987 Kodiak Refuge Management Plan for Commercial Fishing Activities. Section 304(d) of the Alaska National Interest Lands Conservation Act allows the exercise of valid commercial fishing rights and the use of refuge lands for structures and activities incident to the fishing rights as long as they are compatible with refuge purposes and not a significant expansion of the level of such commercial fishing activities within the refuge during 1979. The re-evaluation of the previously mentioned plan consists of 24 setnet site special use permits and authorizes the following types of facilities and uses:

- Primary type of facilities authorized per site:
  - One primary cabin for living quarters, cooking, food and dry goods storage, laundry, shower stall, and area for wet clothes
  - One structure for off-season gear storage and in-season overflow living quarters and workspace
  - One generator/ice machine storage building
  - One outhouse
  - One banya, if there is an inadequate fresh-water supply at the site
  - A small water storage tank (if necessary to build head for water supply)
- Size of facilities
  - Primary cabin—600 square feet
  - Utility cabin—400 square feet (for holders of 1–3 limited entry permits); 500 square feet (for holders of 4 limited entry permits), and 600 square feet (for holders of 5 limited entry permits)
  - Banya—64 square feet (if freshwater source is not adequate for shower)
  - Generator/ice machine building—100 square feet (for holders of 1 limited entry permit); 200 square feet (for holders of 2 or more limited entry permits)

The 2011 Commercial Fisheries Facilities Management Plan also authorizes issuance of up to three 1-year commercial fishing site permits for set net or beach seine activity using temporary facilities. The fishing site may be a set net or beach seine operation and must be located in a moderate management zone. The permit would authorize temporary facilities which must be removed at the end of the fishing season. Applications would be reviewed to ensure the proposed facility is compatible with refuge purposes. Permits would be assessed the permit administrative fee and the site use fee for tent platforms and other camp structures as per the U.S. Fish and Wildlife Service Annual Fee Schedule.

Facilities may be occupied from May 15 through September 15 annually. Occupancy at other times of the year must be authorized by the refuge manager. Commercial fisheries are managed by the State of Alaska to maintain healthy fish populations; one of the purposes of Kodiak Refuge. Therefore, facilitating continued commercial fishing directly contributes to achieving refuge purposes.

All changes regarding differences from the 1987 plan and the 2011 plan are compared in the table below.

### **Comparison of Commercial Fisheries Support Facilities Management Plans**

<b>Action</b>	<b>1987 Plan</b>	<b>2011 Plan</b>
Season of Use	May 15 – September 15	Same
5-Year Permits	24 permits issued	Same
Annual Permits	None	3 annual permits available
Transfer of Permits	Not allowed	Same
Total Structures	4 structures per site	5 structures per site
Facility Repair	Permittee responsibility	Same
Ownership	Prior to December 2, 1980 Permit holder After December 2, 1980 New Cabins - Government	Same
Authorized Uses	Commercial Fishing	Same
Use of Refuge Lands	Existing garden plots authorized, no new plots authorized	200 square foot garden plot authorized for all sites

#### **Availability of Resources**

Adequate refuge personnel and base operational funds are available to manage the commercial fishing special use permit program. Administrative staff time is used to prepare the permits. Field staff visit sites and conduct inspections for compliance with the terms and conditions of the special use permits.

#### **Anticipated Impacts of the Use**

With the levels of use and related facilities described in the Commercial Fisheries Support Facilities Management Plan, no long-term major adverse effects on refuge resources are anticipated. Most of the facilities have been in place for a number of years. The potential for adverse human-bear encounters always exists on Kodiak Refuge, especially where people congregate and especially associated with fishing. Stipulations in special use permits are designed to minimize this danger. Reported defense of life or property bear kills are considered when the State of Alaska is establishing the number of brown-bear

hunting permits to be issued so no long-term adverse impacts would occur even if there are bear kills associated with these permits.

Invasive plants could become established at these sites because of the continued presence of visitors and existing vegetation and soil disturbance. These sites would be relatively easy to monitor for the presence of invasive plants, and eradication efforts could be undertaken prior to invasive plants spreading beyond the immediate vicinity.

### Public Review and Comment

Public comment was solicited concurrently with the revision of the Refuge's Commercial Fisheries Support Facilities Management Plan (CFSFMP). Set net site permittees, state and federal agencies and other interested entities were notified via a letter dated November 29, 2007, of a public scoping meeting to be held on January 15, 2008. The intent of the meeting was to collect public input on changes needed to the 1987 plan. A public comment period was open from November 29, 2007, to February 15, 2008. A final public meeting was held April 27, 2010. Written and oral input was received and used to determine changes in management of these issues. Comments received included requests for the plan to allow opportunities for beach seiners, new garden plots, number of structures, additional permits, season of use, and to define what constitutes "significant expansion of commercial fishing activities beyond the level of such activities during 1979" as described in ANILCA section 304(d), as well as others which were not relevant to the CFSFMP.

Responses to all comments have been included in the Refuge's final CFSFMP. They are located in the "Summary of Public Comments Received and Refuge Response" section of the CFSFMP.

### Determination

\_\_\_\_\_ Use is Not Compatible

X  Use is Compatible With the Following Stipulations

### Stipulations Necessary to Ensure Compatibility

- Primary facilities permitted per permit site are one cabin (600 square feet), one utility structure (400 square feet), one generator/ice machine storage building (100 square feet if one permit fished; 200 square feet if two or more permits fished), one outhouse, and one banya (64 square feet) if a fresh water source is not adequate for a shower. (Set Net Site – Commercial Fishing)
- Buildings must be single story, and the exterior must be a dull color that blends with the surroundings. (Set Net Site – Commercial Fishing)
- If existing facilities contain less square footage than allowed in the Commercial Fisheries Facilities Management Plan, the size of facilities may be increased up to the maximum. However, the increase will only be allowed if the total number of structures on site is brought into conformance with the Management Plan. (Set Net Site – Commercial Fishing)
- If existing facilities contain more square footage than allowed in the cabin management plan and these facilities are removed, replacement facilities must conform to specifications of the plan. (Set Net Site – Commercial Fishing)

- New garden plots up to 200 square feet are allowed. (Set Net Site – Commercial Fishing)
- A special use permit is required. (Set Net Site – Commercial Fishing)

The management direction provided in the revised Comprehensive Conservation Plan for the refuge will be implemented. The step-down plan for commercial fisheries activities (Commercial Fisheries Facilities Management Plan) will be revised as necessary to identify specific management to ensure that this activity continues to remain compatible with refuge purposes. This includes monitoring of these and other compatible activities. Findings from monitoring would be used to determine what additional management actions, if any, were needed to ensure compatibility. Continuing law enforcement and administrative monitoring of permits will be carried out to ensure compliance with the following conditions that are incorporated into all permits in order to minimize impacts on Refuge lands and resources.

#### Regional Special Conditions

- Failure to abide by any part of this special use permit; violation of any refuge-related provision in Titles 43 or 50, Code of Federal Regulations; or violation of any pertinent state regulation (e.g., fish or game violation) will be considered grounds for immediate revocation of this permit and could result in denial of future permit requests for lands administered by the U.S. Fish and Wildlife Service. This provision applies to all persons working under the authority of this permit (e.g., assistants or contractors). Appeals of decisions relative to permits are handled in accordance with 50 Code of Federal Regulations 36.41.
- The permittee is responsible for ensuring that all employees, party members, contractors, aircraft pilots, and any other persons working for the permittee and conducting activities allowed by this permit are familiar with and adhere to the conditions of this permit.
- Any problems with wildlife and/or animals taken in defense of life or property must be reported immediately to the refuge manager, the Alaska Department of Fish and Game, and the Alaska State Troopers. Animals taken must be salvaged in accordance with state regulations.
- The permittee and permittee's employees do not have the exclusive use of the site(s) or lands covered by the permit.
- This permit may be cancelled or revised at any time by the refuge manager for noncompliance or in case of emergency (e.g., public safety, unusual resource problems).
- The permittee or party chief shall notify the refuge manager during refuge working hours in person or by telephone before beginning and upon completion of activities allowed by this permit.
- Prior to beginning any activities allowed by this permit, the permittee shall provide the refuge manager with: (1) name and method of contact for the field party chief/supervisor; aircraft and other vehicle types to be used, identification information for these vehicles; and names of crew members, and (2) any changes in information provided in the original permit application.
- In accordance with the Archaeological Resources Protection Act (16 U.S.C. 470aa), the disturbance of archaeological or historical sites, and the removal of artifacts are prohibited. The excavation, disturbance, collection, or purchase of historical, ethnological, or archaeological specimens or artifacts is prohibited.

- Permittees shall maintain their use areas in a neat and sanitary condition. Latrines must be located at least 150 feet from springs, lakes, and streams. All property of the permittee except for cabins and tent frames is to be removed from refuge lands upon completion of permitted activities.
- The construction of landing strips or pads is prohibited.
- The use of motorized vehicles is prohibited on all Refuge lands.
- Unauthorized caches of fuel are prohibited. Fuel storage, if any, will be in compliance with regional Service fuel storage policy.
- Subject to available suppression resources, all permitted cabins will be protected from wildfire to the extent possible. Human safety will receive the highest priority consideration by land managers and fire-suppression personnel.

#### Kodiak Refuge Conditions

- Visitors will be required to comply with any temporary restrictions, emergency orders or other types of regulatory actions promulgated by the Refuge Manager to prevent resource problems or conflicts, in cases of emergency, public safety, or unusual resource problems.
- The use of Native or State lands that have been conveyed (patented) is not authorized by this permit.
- Use of Native or State lands that have been selected but not yet conveyed is prohibited unless a letter of concurrence is submitted to the refuge manager prior to beginning any activities allowed by this permit.
- A copy of this special use permit must be in the permittee's possession at all times while exercising the privileges of the permit.
- Food or garbage attractive to bears or other wildlife will be immediately disposed of. No attractive nuisance for bears or other wildlife shall be created by food storage, improper disposal of garbage (includes of burying of garbage), fish smoking, salting, drying, or other uses.
- Combustibles (paper, wood, etc.) may be burned, but all other debris, including cans, bottles, fuel containers, and any other noncombustible material shall be removed and disposed of off refuge when departing camps.
- Additions or alterations to existing structures and construction of new facilities must have the refuge manager's prior approval in writing.
- The discharge of firearms is prohibited, except in conjunction with authorized hunting seasons or for protection of life or property.
- This is a permit for the specific approved commercial use from a designated site. Set net cabins may be occupied only by persons legitimately involved in the commercial fishing enterprise, assistants, employees, their families, guests and clients and only during the time that the authorized activity is occurring. The names of those individuals, excluding guests and clients, will be listed on the permit. The permittee or another individual listed on the permit must be present when the cabin is occupied. (50CFR 36.33(e)(4)) (Set Net Site – Commercial Fishing)
- Any major exterior rehabilitation of or additions to existing structures must have the refuge manager's prior approval in writing. This does not include minor remodeling or routine maintenance. (Set Net Site – Commercial Fishing)

- Cabins on refuge lands shall not be used by the permittee without the permission of the refuge manager except in cases of dire emergency for survival purposes. Construction of cabins or other permanent structures is prohibited. (Beach Seiner or Temporary Camp Permit)
- Compliance with provisions of the Eagle Protection Act resides with the permittee. Camps must be established at least 1,320 feet (0.25 miles) from eagle nests. Indications of significantly disturbed behavior include the giving of alarm calls, flushing birds from the nest or perch, and aggressive behavior by the birds. (Beach Seiner or Temporary Camp Permit)
- Construction of cabins or other permanent structures is prohibited. (Beach Seiner or Temporary Camp Permit)
- One temporary facility will be authorized for each permit. All temporary facilities must be removed from Refuge lands at the end of the fishing season. (Beach Seiner or Temporary Camp Permit)
- For overnight tent camps, maximum party size may not exceed six (6) persons, including the permittee and assistants. The refuge manager may restrict use of some sites for overnight camping to prevent resource problems or conflicts. (Beach Seiner or Temporary Camp Permit)
- Permittee must notify the Refuge Manager three days in advance of each move of campsite. This may be done through the tender or one of the canneries. Permittee will also leave word as to where the Refuge can return a message. (Beach Seiner or Temporary Camp Permit)
- The introduction of non-native plants is prohibited except for annual garden vegetables. (Set Net Site – Commercial Fishing)
- The introduction of wildlife is prohibited. (Beach Seiner or Temporary Camp Permit)
- Domestic Livestock including, but not limited to cows, horses, goats, sheep, poultry, and swine are prohibited on the refuge.
- Pets are allowed but no more than two dogs and two cats. Pets must be under the immediate supervision of their owner and not allowed to roam unconfined or disturb wildlife.
- Endorsement of this permit signifies the permittee's understanding and concurrence with all the conditions set forth in the General Conditions found on the reverse side of the permit and the above Special Conditions.

### **Justification**

Analysis conducted as part of the Refuge's original comprehensive conservation planning process found that commercial fishing-related activities on Kodiak Refuge had expanded beyond the 1979 level and that any further expansion of facilities would not be compatible with Refuge purposes. Since 1979, some facilities on selected refuge lands were conveyed to private ownership. Commercial fishing activities continue on these sites, but are no longer administered by the Refuge. Other new facility sites include several recently constructed on private land and on islands administered by Alaska Maritime Refuge. The Kodiak Refuge, with substantial input from commercial fishing setnet permit holders and others, prepared the 1987 plan to address concerns that had been raised relative to adverse effects of facilities on refuge resources. The plan was crafted to ensure that commercial fishing

activities could continue without materially interfering with or detracting from the purposes of Kodiak Refuge. Comments received from refuge setnet site operators during revision of the comprehensive conservation plan and re-evaluation of the 1987 plan indicated they strongly support this decision to not issue additional refuge special use permits for commercial fishing support facilities.

Because most sites have been occupied for many years, adverse impacts on habitat have already occurred. Very little other refuge habitat has been affected by human activities. The small footprint of facilities minimizes habitat damage and concentrates physical and biological impacts. The 2011 revision of the Commercial Fishing Facilities Management Plan would allow one additional structure at set net sites - a shed to house a generator and ice machine and new gardens up to 200 square feet. This would result in a small additional degree of impact; however, impact is minimized by limiting the size of the structure and requiring that it be sited within or immediately adjacent to the current footprint of the set-net site. Garden plots may only be used for the purpose of growing annual garden vegetables. The Refuge will annually issue up to three 1-year commercial fishing site permits for set net or beach seine activity using temporary facilities. The fishing site may be a set net or beach seine operation and must be located in a moderate management zone. The permit would authorize temporary facilities which must be removed at the end of the fishing season. Applications would be reviewed to ensure the proposed facility is not located in an area of high importance to wildlife or public use and is compatible with refuge purposes. Because facilities associated with these permits would only be present seasonally, it is anticipated that impacts to the refuge or its resources would be minimal. Stipulations contained in special use permits are intended to protect bears and other refuge resources from adverse impacts; especially defense of life or property kills of bears.

Monitoring conducted by Refuge personnel ensures compliance with permit conditions and rapid resolution of problems before they become serious.

### **Supporting Documents**

- U.S. Fish and Wildlife Service. 1987. Kodiak National Wildlife Refuge Management Plan for Commercial Fishing Activities. Kodiak, Alaska. 23 pp.
- U.S. Fish and Wildlife Service. 1987. Kodiak National Wildlife Refuge Final Comprehensive Conservation Plan, Wilderness Review, and Environmental Impact Statement. U.S. Fish and Wildlife Service. Anchorage, Alaska. 533 pp.
- U.S. Fish and Wildlife Service. 1993. Kodiak National Wildlife Refuge, Final Public Use Management Plan and Environmental Assessment. U.S. Fish and Wildlife Service. Kodiak, Alaska. 202 pp.



## Refuge Determination

Refuge Manager /

Project Leader Approval:

Gary D. Wheeler  
(Signature)

8-31-11  
(Date)

## Concurrence

Regional Chief,  
National Wildlife  
Refuge System:

M. Lee  
(Signature)

9-12-2011  
(Date)

**Mandatory 10-Year Re-Evaluation Date** (provide month and year for allowed uses only): X

**Mandatory 15-Year Re-Evaluation Date** (for priority public uses):\_\_

## NEPA Compliance for Refuge Use Decision

\_\_\_\_\_ Categorical Exclusion without Environmental Action Memorandum

\_\_\_\_\_ Categorical Exclusions and Environmental Action Memorandum

\_\_\_\_\_ Environmental Assessment and Finding of No Significant Impact

X \_\_\_\_\_ Environmental Impact Statement and Record of Decision

